IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 24TH JULY 2007 / 2ND SRAVANA 1929

OP.No. 25715 of 2001(J)

PETITIONER:

V.VISWANATHAN,
HEAD SURVEYOR,
OFFICE OF THE SUPERINTENDENT OF SURVEY (RE-SURVEY),
THOLIKKOD (PO), PUNALUR, KOLLAM.

BY ADV. SRI.M.V.THAMBAN

RESPONDENTS:

1. **STATE OF KERALA, REPRESENTED BY THE SECRETARY TO THE GOVERNMENT, DEPARTMENT OF REVENUE, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.**

2. **THE DIRECTOR, DEPARTMENT OF SURVEY AND LAND RECORDS, THIRUVANANTHAPURAM.**

***ADDL.R3 IS IMPLEADED:**

R3. **V.KAMALESAN PILLAI, SURVEY SUPERINTENDENT (ALC NO.5 (RE-SURVEY), KOLLAM.**

(*ADDL.R3 IS IMPLEADED AS PER ORDER DTD. 24/08/2001 IN C.M.P.NO.42102/2001)

BY GOVERNMENT PLEADER SMT. T.B.RAMANI

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 24/07/2007 ALONG WITH OP NO. 34451 OF 2001, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P.NO.25715/2001 J

APPENDIX

PETITIONER'S EXHIBIT:

EXT.P1: COPY OF REPRESENTATION DTD. 30/07/2001 SUBMITTED BY THE PETITIONER BEFORE THE GOVERNMENT.

/TRUE COPY/

P.S.TO JUDGE

KSS

THOTTATHIL B. RADHAKRISHNAN, J.

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O.P.Nos.25715/2001-J & 34451/2001-B

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Dated this the 24th day of July, 2007.

JUDGMENT

The petitioner's grievance relates to the alleged refusal of the Department to grant him promotion as Superintendent of Survey and Land Records. It appears that the question as to whether the lists prepared by the Government for effecting promotions were in accordance with law, had been gaining attention of this Court and as stated in the counter affidavit, the said writ petition was disposed of on 7-3-2002. Thereafter, the Government issued orders of promotion. But the petitioner had, in the meanwhile, retired from service as Head Surveyor. The issue that should, therefore, gain attention is whether the petitioner was entitled to be promoted as Superintendent of Survey and Land Records on the basis of his seniority as

against any vacancy that had occurred while he was in service, for which he was qualified. On a consideration of such question, if the petitioner is found entitled by virtue of his qualification and seniority to be promoted as against a vacancy that occurred during the currency of his service, his such entitlement could be notionally declared by the Government so that the petitioner's retiral benefits would get re-fixed on that basis.

In the aforesaid circumstances, subject to what is aforesaid, these writ petitions are disposed of without expressing any further on merits, but directing that the Government shall decide whether the petitioner was entitled to placement as Superintendent of Survey and Land Records before he retired from service notwithstanding the order of stay granted in O.P.27211/2000 which ultimately merged in the judgment in that case delivered on 7-3-2002. If he is found entitled to such placement, he shall be

notionally placed into the category of Superintendent of Survey and Land Records and his retiral benefits will be re-fixed accordingly without any entitlement for arrears of emoluments. Let a final decision as afore-directed be taken within a period of three months from the date of receipt of a copy of this judgment and any monetary benefits found due to the petitioner shall be released within a period of one month therefrom. All the impugned decisions will be subjected to review by the Government in the light of what is aforesaid.

THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

Sha/-

THOTTATHIL B. RADHAKRISHNAN, J.

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O.P.Nos.25715/2001-J & 34451/2001-B

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JUDGMENT

Dated: 24th July, 2007.